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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,262	12/14/2001	David L. Adler	P960	6094
31894	7590	05/04/2005	EXAMINER	
OKAMOTO & BENEDICTO, LLP P.O. BOX 641330 SAN JOSE, CA 95164				JOHNSTON, PHILLIP A
ART UNIT		PAPER NUMBER		
		2881		

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/017,262	ADLER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Phillip A. Johnston	2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 February 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 61, 62 and 66-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 61, 62 and 66-69 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

***Detailed Action***

1. This Office Action is submitted in response to Amendment filed 2-23-2005, wherein claims 61,66, and 69 have been amended. Claims 61,62, and 66-69 are pending.

***Examiners Response to Arguments***

2. Applicants arguments are moot in view of new grounds for rejection.

***Claims Rejection – 35 U.S.C. 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

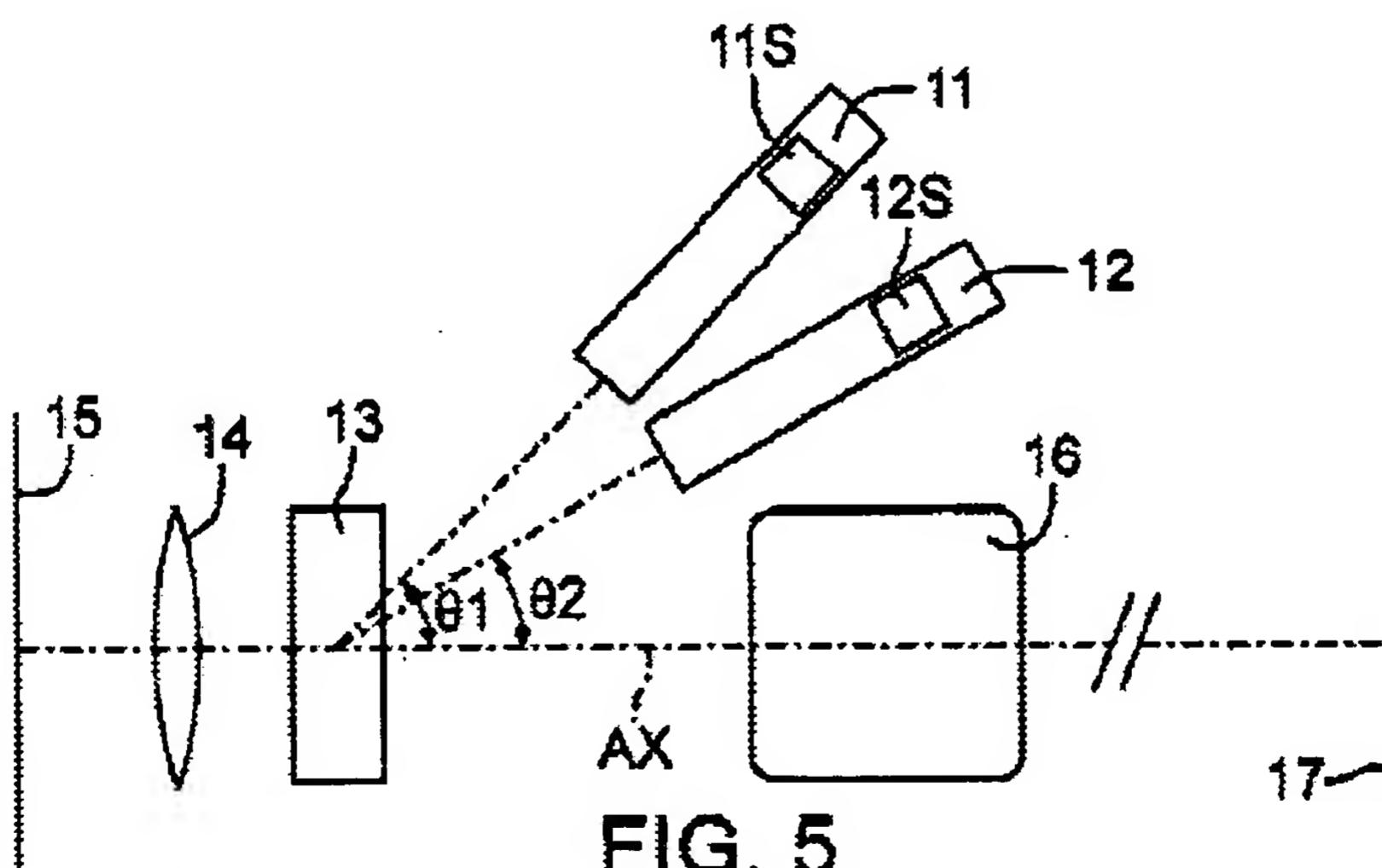
4. Claims 61,62, and 66-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,717,145 to Takagi, in view of Ose, U.S. Patent Pub. No. 2001/0010357.

Takagi (145) discloses the following;

(a) Simultaneously irradiating a specimen with dual electron beams having different energies to control surface charging and enhance detection of imaging electrons, as recited in claims 61,66, and 69. See Column 3, line 28-42; and Column 5, line 41-45;

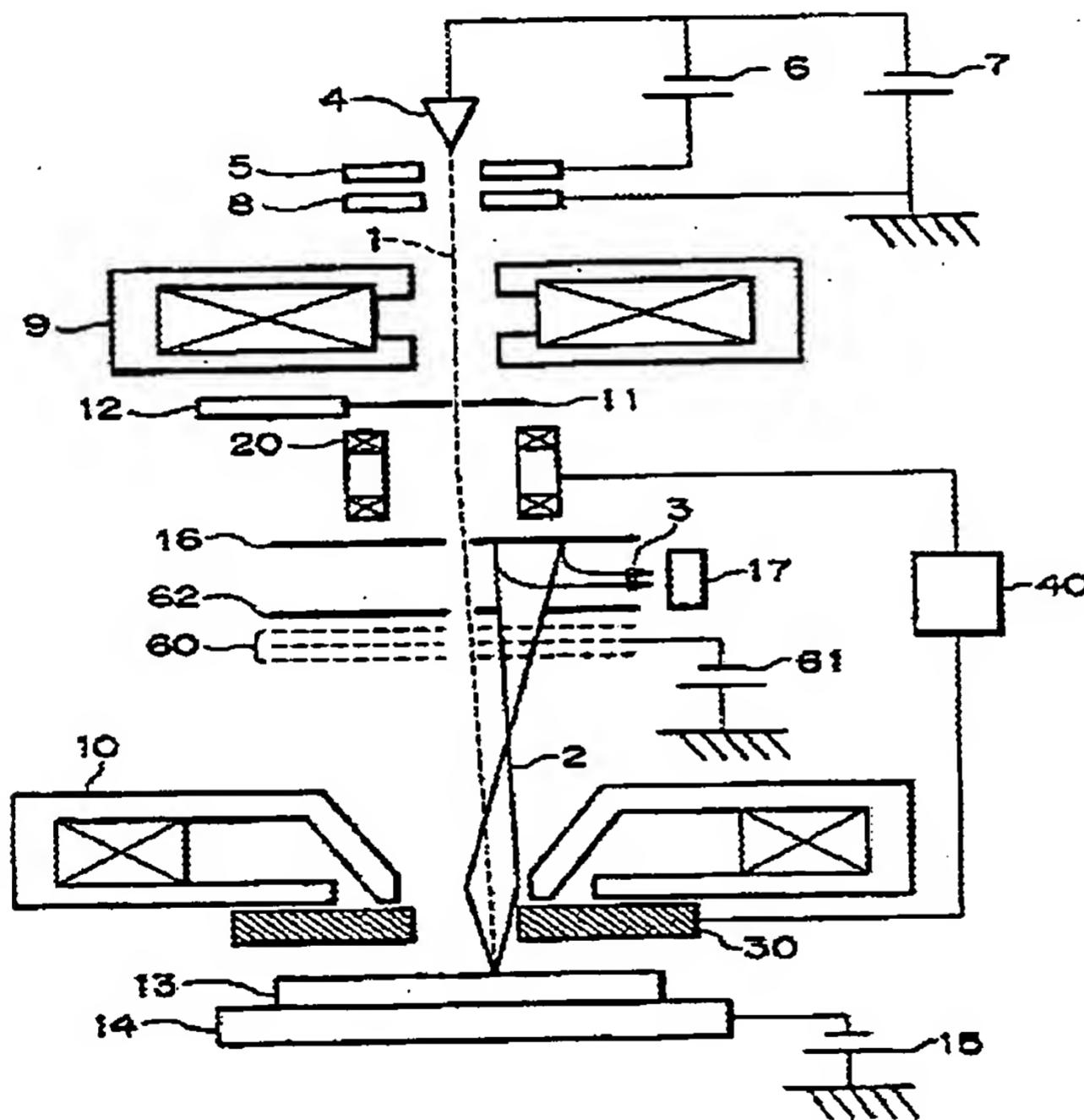
(b) The use of Wien energy filters, a projection optical system, and a CCD detector to route imaging electrons to the imaging detector, as recited in claims 61,66, and 69. See Figure 5 below; Column 7, line 65-67; Column 8, line 1-23, and 42-63;

It is implied herein that the use of Wien filters in accordance with Takagi (145) to set the magnetic field produced by the Wien filter to fulfill a Wien condition with respect to secondary electrons accelerated from the specimen surface, is equivalent to selecting most or all of the secondary and reflected electrons, as recited in claims 61,66, and 69.



Takagi (145) as applied above fails to teach filtering imaging electrons based on their angular distribution from the surface of the specimen. However, Ose (357) discloses an electron beam apparatus for detecting secondary electrons and reflected electrons based upon the angular positions from which they were generated from the specimen surface, as recited in claims 62, and 67-69. See paragraphs [0026] and [0032]; and Figure 1 below.

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Therefore it would have been obvious to one of ordinary skill in the art that the mapping electron microscope apparatus and method of Takagi (145) can be modified to use the angular detection method of Ose (357), to provide a detection system where positions at which electrons fall on a conversion electrode are dependent on the angle at which the electrons are generated at the specimen surface. Thereby, information

represented by the selected electrons can be obtained with high sensitivity without causing significant deterioration of resolution.

***Conclusion***

5. The Amendment filed on 2-23-2005 has been considered but the arguments are moot in view of new grounds for rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

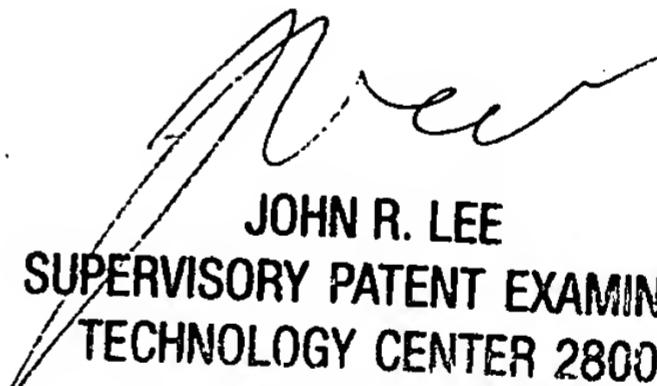
6. Any inquiry concerning this communication or earlier communications should be directed to Phillip Johnston whose telephone number is (571) 272-2475. The examiner

can normally be reached on Monday-Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor John Lee can be reached at (571) 272-2477. The fax phone number for the organization where the application or proceeding is assigned is 703 872 9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PJ

April 27, 2005



JOHN R. LEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800